

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

GARY EYE,)
)
)
Movant,)
)
vs.) Case No. 11-1130-CV-W-ODS
) Crim. No. 05-00344-01-CR-W-ODS
UNITED STATES OF AMERICA,)
)
)
Respondent.)

ORDER AND OPINION DENYING CERTIFICATE OF APPEALABILITY

On this date, the Court has denied Petitioner's motion for postconviction relief. In order to appeal, Petitioner must first obtain a Certificate of Appealability. The Court customarily issues an Order addressing the Certificate of Appealability contemporaneously with the order on the Petition because the issues are fresh in the Court's mind and efficiency is promoted. See Rule 11(a), Rules Governing Section 2255 Proceedings ("court may direct the parties to submit arguments on whether a certificate should issue.").

28 U.S.C. § 2253(c)(2) provides that a Certificate of Appealability should be granted "only if the applicant has made a substantial showing of the denial of a constitutional right." This requires Petitioner to demonstrate "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (quotation omitted). The Court concludes none of the issues Movant has raised are debatable, and none require or deserve further consideration on appeal. Accordingly, the Court declines to issue a Certificate of Appealability on any issue.

The Clerk of Court is directed to mail a copy of this Order to:

Gary Eye
Reg. No. 18593-045
USP Pollock
P.O. Box 2099
Pollock, Louisiana 71467-2099

IT IS SO ORDERED.

DATE: May 22, 2013

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT